

2002 DEC 13 AM 10: 53

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	WATER RIGHT NOS.: EXHIBIT A
	)	(Basin 37: (188) Stipulation Re: Priority)

I. FINDINGS OF FACT

Claims were filed by the United States Bureau of Land Management for the above listed water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained recommendations for the elements of these water rights.

The State of Idaho filed *Objections* to the above listed water rights on June 2, 1999. *Objections* were filed on September 10, 1999 by Pickett Ranch & Sheep Co., Joe Tugaw, Jared Bedke, Bruce Bedke, Joyce Livestock Company, Jerry Hoagland, Scott Bedke, Karl Bedke, Michael Poulton, Gary Poulton and Western Stockgrowers Association (hereafter "Second Objectors").

The "Second Objectors" filed a *Notice of Withdrawal of Objections and Responses* on August 29, 2002. The remaining *Objections* were resolved with the filing of a *Stipulation to Resolve the State of Idaho's Objections* on October 30, 2002.¹ The United States Bureau of Land Management and the State of Idaho are signatories to the *Stipulation to Resolve the State of Idaho's Objections*. The *Stipulation* changed the priority date to June 28, 1934. The Idaho Department of Water Resources filed a *Notice of Concurrence with Stipulation to Resolve the*

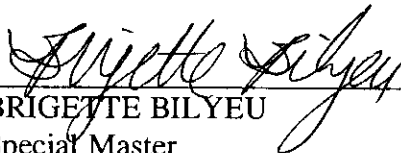
¹ The original list of subcases attached to the *Stipulation to Resolve the State of Idaho's Objections* totaled 1165. The court split the list into two groups (977 & 188) for purposes of filing.

States of Idaho's Objections on November 13, 2002. There are no unresolved objections remaining.

II. CONCLUSIONS OF LAW

The United States claimed these rights under state law. There is no assertion that these rights are based on a federal reservation. Therefore, based on the files and records herein, IT IS RECOMMENDED that these water rights be **decreed** with the elements set forth in the attached *Special Master's Recommendations for Partial Decrees*.

DATED: December 13, 2002



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

EXHIBIT A (B37:(188)STIP RE:PRIORITY)

Subcase Nos:

37-18284	37-19184	37-19366	37-19553
37-18387	37-19193	37-19367	37-19573
37-18388	37-19194	37-19368	37-19574
37-18420	37-19259	37-19380	37-19575
37-18432	37-19275	37-19382	37-19576
37-18446	37-19276	37-19386	37-19578
37-18447	37-19277	37-19392	37-19602
37-18449	37-19278	37-19394	37-19607
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37-18592	37-19291	37-19420	37-20142
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37-18639	37-19300	37-19431	37-20156
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37-18642	37-19302	37-19434	37-20158
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37-18646	37-19307	37-19464	37-20251
37-18647	37-19308	37-19465	37-20253
37-18652	37-19309	37-19466	37-20257
37-18653	37-19310	37-19471	37-20258
37-18654	37-19311	37-19472	37-20262
37-18655	37-19312	37-19473	37-20263
37-19114	37-19318	37-19474	
37-19161	37-19319	37-19475	
37-19162	37-19320	37-19477	
37-19170	37-19321	37-19502	
37-19171	37-19322	37-19503	
37-19172	37-19323	37-19504	
37-19175	37-19324	37-19526	
37-19176	37-19355	37-19527	
37-19177	37-19359	37-19528	
37-19178	37-19360	37-19550	
37-19182	37-19364	37-19551	
37-19183	37-19365	37-19552	

(Subcase list: 37STIP194)
12/03/02

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DIST. CLERK - SRBA
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 37-18284
(SEE ATTACHED EXHIBIT A)

On December 13, 2002, Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (A01), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED December 13, 2002.

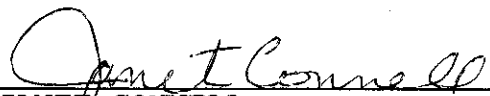

JANET CONNELL
Deputy Clerk

Exhibit A

Subcase Nos:

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CLERK OF DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED *g*

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 37-18284
(SEE ATTACHED EXHIBIT A)

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on December 13, 2002, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

USDI BLM
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

CERTIFICATE OF MAILING

Janet Connell PAGE 1
JANET CONNELL 12/13/02
Deputy Clerk

Exhibit A

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-19161

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: WEST DEMPSEY CREEK TRIBUTARY: DRY CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 06/28/1934

POINT OF DIVERSION: T03S R11E S13 NENENE (Instream Beginning Point) Within Elmore County
R12E S18 LOT 3 (SWNSW) (Instream Ending Point)

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Stockwater 01-01 TO 12-31 0.02 CFS

PLACE OF USE: Stockwater Within Elmore County
T03S R11E S13 NENE
Within Gooding County
R12E S18 LOT 1 (NWNW) LOT 2 (SWNW)
LOT 3 (NWSW)

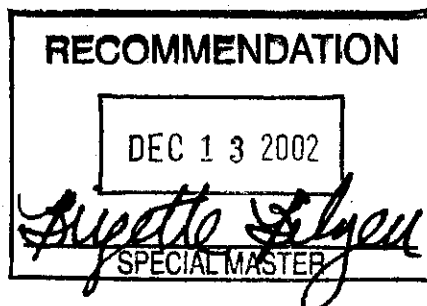
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication